

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's Own Motion into the Operations and Practices of the Conlin-Strawberry Water Co. Inc. (U-177-W), and its Owner/Operator, Danny T. Conlin; Notice of Opportunity for Hearing; and Order to Show Cause Why the Commission Should Not Petition the Superior Court for a Receiver to Assume Possession and Operation of the Conlin-Strawberry Water Co. Inc. pursuant to the California Public Utilities Code Section 855.

Investigation 03-10-038
(Filed October 16, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
FOLLOWING FINAL PREHEARING
CONFERENCE AND EVIDENTIARY HEARING**

A final prehearing conference was held in this proceeding on Monday, May 10, 2004. The first day of the evidentiary hearing was held on Tuesday, May 11, 2004. Cleveland Lee, representing the Commission's Water Division, and Thomas J. MacBride, Jr., representing the Respondents, appeared on both days.

Prehearing Conference

The final prehearing conference addressed the Respondents' Motion in Limine (May 5, 2004) and the Water Division's Motion in Limine (May 6, 2004), as well as procedural arrangements for the first day of the evidentiary hearing. The Administrative Law Judge ruled that facts concerning water system operation, reliability, and management, subsequent to the post-July 13 & 14,

1995, evidentiary hearing before the Commission, are relevant to this proceeding. The financial audit previously ordered by the Commission but apparently never completed is also relevant to this proceeding. The Administrative Law Judge issued the following specific evidentiary rulings on the Respondents' Motion in Limine:

Rugg Declaration:

Para. 4—may be offered as evidence; reserve ruling on admissibility until there is a record sufficient to determine whether paragraph is collaborated by other evidence.

Para. 9—statement is secondary evidence of 2003 staff report, which is the more definitive source; statement not admitted into evidence.

Para. 12—may be offered as evidence and will be admitted so long as proper foundation established.

Para. 13—may be offered as evidence and will be admitted so long as proper foundation established as to Rugg's qualifications to render expert opinion.

Rugg's Testimony in General:

Respondents claim that they have been denied adequate opportunity to prepare since Rugg's prepared testimony based on 1995 facts and not recent circumstances. At conclusion of Rugg's testimony, Respondents may move to recall Rugg for additional examination if they can demonstrate that they have been significantly disadvantaged in their preparation.

Designations from July 1995 Hearing Transcript:

Not admitted into evidence as the Commission has already addressed pre-July 1995 evidence

Documents:

Deane Letter (9/13/95)—post-1995; allow into evidence paragraphs 1, 2, 10.

Curry Letter (9/25/96)—post-1995; however, irrelevant as it makes suggestions to staff but does not offer additional facts; not admitted into evidence.

Petitions for Modification—suggested modifications to Commission re implementation and enforcement; already considered by Commission; irrelevant; not admitted into evidence.

Evans Letter (5/21/98)—post-1995; evidence of progress re CPUC orders; allow into evidence.

CPUC Letter (9/7/01)—post-1995; evidence of progress re CPUC orders; allow into evidence.

Complaint (5/17/01)—need foundation; reserve ruling on document.

Minutes of Strawberry Property Owners' Ass'n—post-1995; allow into evidence so long as foundation laid concerning business records and minutes discuss water system issues or status of CPUC proceedings.

The Administrative Law Judge issued the following evidentiary rulings on the Water Division's Motion in Limine:

Postcards:

Not admitted into evidence; will be considered as communications to Commission.

The final prehearing conference was continued to 1:30 p.m. on Thursday, May 20, 2004, in preparation for the continued evidentiary hearing.

Evidentiary Hearing

At the evidentiary hearing on Tuesday, May 11, 2004, exhibits were marked, offered, and admitted into evidence as indicated on the Exhibit Index, attached to this ruling as Appendix 1. Mr. William Rugg was called as a witness by the Water Division, sworn, examined by the Water Division, and cross-examined by the Respondents. Upon conclusion of his testimony, Mr. Rugg was dismissed as a witness.

The evidentiary hearing was continued to 9:00 a.m. on Monday, May 24, 2004, and will continue on May 25 and May 26, if not concluded earlier. All scheduled hearings and conferences in the proceeding will be held in a Commission hearing room, 505 Van Ness Avenue, San Francisco, California.

IT IS SO RULED.

Dated May 14, 2004, at San Francisco, California.

/s/ JOHN E. THORSON

John E. Thorson
Administrative Law Judge

California Public Utilities Commission

Exhibit Index

Pages 1-2

Proceeding No. I.03-10-038

Inclusive Dates: 5/11/04 to _____

(Prepared as of 5/11/04)

ALJ John E. Thorson

Presiding

Ex No.	PARTY OFFERING	WITNESS	DESCRIPTION	DATE	
				IDENTIFIED	RECEIVED
1	Water Division	W. Rugg	Declaration of W. Rugg (4/6/04) with para. 9 crossed out	5/11/04	5/11/04 (S)
2	Water Division	W. Rugg	SPOA Minutes: 7/5/03, 5/25/02, 9/1/01, 7/1/00, 7/3/99, 7/4/98, 6/6/96	5/11/04	5/11/04 (S)
3	Water Division	W. Rugg	SPOA Letter to L. Lynch, 8/21/02 w/ attached ratepayer letters	5/11/04	5/11/04 (S)
4	Water Division	W. Rugg	Complaint, SPOA v. CSWC, 7/17/01 w/ attached petition signed by ratepayers	5/11/04	5/11/04 (S)
5	Water Division	W. Rugg	SPOA letter to Commission, 9/7/01	5/11/04	5/11/04 (S)
6	Water Division	W. Rugg	W. Rugg letter to K. Evans, 5/21/98	5/11/04	5/11/04 (S)
7	Water Division	W. Rugg	W. Rugg Statement, undated and entitled, "What's Wrong with CWCS? A Bit of History and Perspective"	5/11/04	5/11/04 (S)
8	Water Division	W. Rugg	October 26, 1998, SPOA Water Update	5/11/04	Not admitted
9	Withdrawn	Withdrawn	Withdrawn	Withdrawn	Withdrawn
10	Water Division	W. Rugg	116 Ratepayer postcards	5/11/04	Not admitted
11	Water Division	W. Rugg	Water Update	5/11/04	Not admitted
12	Water Division	W. Rugg	Water Update	5/11/04	Not admitted
13	Water Division	W. Rugg	Email to Rugg, Jan. 21, 2003 (numbered page 3 only)	5/11/04	5/11/04 (S)
14	Water Division	W. Rugg	Water Report, 2000-2001	5/11/04	
15	Water Division	W. Rugg	2004 Water Report	5/11/04	
16	Water Division	W. Rugg	Excerpt, Status of Required System Improvements	5/11/04	
17	Water Division	W. Rugg	Inspection of the Conlin-Strawberry Water Co.	5/11/04	
18	Water Division	W. Rugg	Conlin Letter to Board of Directors	5/11/04	5/11/04 (S)
500	Respondent	Conlin	Danny Conlin Prepared Testimony		

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501	Respondent	Conlin	Contract between DWR & Conlin-Strawberry		
502	Respondent	Conlin	Fiscal Services Agreement		
503	Respondent	Conlin	WD's Data Response re Customer Complaints and DHS correspondence		
504	Respondent	Conlin	Kerrie Evans' Declaration, 1/5/2004		
505	Respondent	Official Notice	ALJ Ruling Setting Hearing for 8/23/2000		
506	Respondent	Official Notice	ALJ Ruling on General Rate Case		
507	Respondent	Official Notice	Resolution No. W-4207	5/11/04	5/11/04
508	Respondent	Official Notice	Resolution No. W-4144	5/11/04	5/11/04
509	Respondent	Official Notice	D.83-05-052	5/11/04	5/11/04
					(S)= stipulated

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail, to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Following Final Prehearing Conference and Evidentiary Hearing on all parties of record in this proceeding or their attorneys of record.

Dated May 14, 2004, at San Francisco, California.

/s/ TERESITA C. GALLARDO
Teresita C. Gallardo

N O T I C E

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